

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JULIA POWELL KELLER-MCINTYRE,  
Plaintiff,  
v.  
SAN FRANCISCO STATE UNIVERSITY,  
Defendant

No. C-06-3209 MMC

**ORDER DENYING PLAINTIFF'S MOTION  
FOR LEAVE TO FILE MOTION FOR  
RECONSIDERATION**

On June 30, 2006, the Court granted in part and denied in part defendant's Motion for Relief Under Rules 12(e), 12(f), and 12(b)(6). In particular, the Court denied the motion to the extent defendant sought dismissal or a more definite statement, and granted the motion to the extent defendant sought to strike certain language from the complaint. On July 5, 2006, plaintiff filed a "Request Rescinding Granting in Part Defendant's Motion," which the Court construes as a motion for leave to file a motion for reconsideration of the Court's order granting defendant's motion to strike language from the complaint.

Pursuant to Civil Local Rule 7-9(a), "[n]o party may notice a motion for reconsideration without first obtaining leave of Court to file the motion." See Civil L.R. 7-9(a). A party seeking to file a motion for reconsideration must show (1) "a material difference in fact or law exists from that which was presented to the Court before entry of the interlocutory order for which reconsideration is sought" and "that in the exercise of reasonable diligence the party applying for reconsideration did not know such fact or law at

1 the time of the interlocutory order”; (2) “[t]he emergence of new facts or a change of law  
2 occurring after the time of such order”; or (3) “[a] manifest failure by the Court to consider  
3 material facts or dispositive legal arguments which were presented to the Court before such  
4 interlocutory order.” See Civil L.R. 7-9(b).


5 Here, plaintiff bases her motion on a recent decision of the United States Supreme  
6 Court, Burlington Northern & Santa Fe Railway Co. v. White, 2006 WL 1698953 (June 22,  
7 2006), which was issued after plaintiff filed her opposition. As plaintiff notes, the Supreme  
8 Court held therein that Title VII’s “anti-retaliation provision does not confine the actions and  
9 harms it forbids to those that are related to employment or occur at the workplace.” See id.  
10 at \*3. Although plaintiff is correct that Burlington Northern is relevant new authority with  
11 respect to how plaintiff ultimately may prove her retaliation claim, nothing in Burlington  
12 Northern sets forth a new standard for pleading such a claim. As the Court noted in its  
13 order denying defendant’s motion to dismiss plaintiff’s retaliation claim, an employment  
14 discrimination complaint need only contain a short and plain statement of the claim. See  
15 Order Granting in Part and Denying in Part Defendant’s Motion for Relief Under Rules  
16 12(e), 12(f), and 12(b)(6), filed June 30, 2006, at 2 (citing Swierkiewicz v. Sorema, 534  
17 U.S. 506, 508 (2002)). Because the Court denied defendant’s motion to dismiss plaintiff’s  
18 retaliation claim, Burlington Northern provides no basis for reconsideration of that order.

19 Accordingly, plaintiff’s motion for leave to file a motion for reconsideration is hereby  
20 DENIED.

21 This order terminates Docket No. 9.

22 **IT IS SO ORDERED.**

23 Dated: July 6, 2006

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25 MAXINE M. CHESNEY  
26 United States District Judge  
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